



February 5, 2003

Honorable Michael K. Powell, Chairman
Honorable Kathleen Q. Abernathy, Commissioner
Honorable Michael J. Copps, Commissioner
Honorable Kevin J. Martin, Commissioner
Honorable Jonathan S. Adelstein, Commissioner
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20054

Re: Ex Parte
CC Docket No. 01-338, 96-98, 98-147

Dear Chairman Powell and Commissioners:

The attached documents from JPMorgan provide an interesting analysis of the effect of the Triennial Review on capital expenditures by the telecom sector. In particular, the reports note that:

- “Potential FCC Ruling a Red Herring for Tech Investors.” (1/16/03 Report, p.1)
- “The upcoming rulings out of the FCC should have little to no impact on carrier spending at the large integrated equipment vendors and therefore are non-events for any of the 6 companies in our coverage universe.” (1/16/03 Report, P.1)
- “RBOC spending from 1996-2001 rode a wave of excess that was uncharacteristically out of pattern with any historical measure of spending.” (1/16/03 Report, p.2)
- “. . . we find it unlikely that pushing DSL availability out to 75% of the RBOC’s territories will unleash a huge pent up demand for the service that would make a meaningful impact on either backhaul traffic levels or on DSLAM port growth.” (1/16/03 Report, p. 4)

The earlier report, dated November 26, 2002 traces the historic levels of RBOC capital expenditures since 1990 (see p. 12). It finds that the RBOCs substantially increased their spending levels from 1997 to 2001, and are now re-adjusting their

capital expenditures downward to use some of their “excess” equipment spent during the “bubble” period. The report expects that the RBOCs will continue to invest at their historic, pre-Telecom Act levels of \$20 billion annually beginning in 2005.

The important conclusion of this data is this: even though the level of RBOC spending is currently less than in the 1996-2001 period, RBOC spending is actually returning to its historic levels. In other words, the level of RBOC spending from 1996-2001 was an aberration, and RBOC spending levels are likely to return to their “normal” levels without any regulatory changes.

We believe that this data demonstrates that policy-makers should refrain from taking actions that would artificially stimulate the same kind of excessive investment that occurred in 1996-2001. To the extent that certain parties are advocating that the FCC should adopt rules changes (such as exempting fiber optic cable technologies) from the unbundling rules in order to promote greater investment, we believe that these reports show that such rule changes are not necessary and would be counter-productive.

Sincerely,

/s/

John Windhausen, Jr.
President
ALTS

Cc: Christopher Libertelli
Matthew Brill
Jordan Goldstein
Daniel Gonzalez
Lisa Zaina
William Maher
Jeffrey Carlisle
Michelle Carey
Thomas Navin
Brent Olson
Rob Tanner